

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

EHOSTAR SATELLITE LLC, a Colorado corporation, EHOSTAR TECHNOLOGIES CORPORATION, a Texas corporation, and NAGRASTAR LLC, a Colorado corporation,

Plaintiffs,

Case No. 06-0425-JJF

v.

FINISAR CORPORATION, a Delaware corporation,

Defendant.

DECLARATION OF LUDMILA YAMALOVA

LUDMILA YAMALOVA, acknowledging that this declaration is made under penalty of perjury, states upon personal knowledge, information and belief as follows:

1. I am an Associate General Counsel of Finisar Corporation ("Finisar"), the defendant in this action.
2. I was the author of the June 16, 2005 letter to Kerry Philip Miller, the Vice President of Intellectual Property, Associate General Counsel of EchoStar Satellite LLC ("EchoStar"), Exhibit J to the October 19, 2006 Declaration of Dion M. Bregman.
3. Finisar never set any time limit for EchoStar to respond to the license offer contained in that letter, nor did Finisar ever advise EchoStar that licensing discussions between Finisar and EchoStar needed to be resolved by any particular date.

4. At no time before it filed this declaratory judgment action did EchoStar communicate to Finisar that the license offer contained in my letter of June 16, 2005 did not provide a basis from which EchoStar and Finisar could negotiate a license to the '505 patent that would be acceptable to EchoStar.

5. Although EchoStar did not respond to my June 16, 2005 letter, Finisar did not find that significant given the pendency of the litigation with DirecTV that was mentioned in that letter and the likely desire of EchoStar to await a judicial determination in that litigation of the issues of infringement, validity and royalty rate with respect to the '505 patent.

6. After the verdict in the DirecTV case, Finisar issued a press release on June 26, 2006 (Bregman Decl., Ex. K) in which it was noted that "[a]s a result of this verdict, Finisar will continue its ongoing '505 patent licensing discussions with other companies operating data distribution networks."

7. Before a further meeting could be arranged and without any prior communication to Finisar from EchoStar, EchoStar filed this declaratory judgment suit.

8. At no time before it filed suit did EchoStar communicate to Finisar that the ongoing licensing discussions between the parties were terminated.

DATED: November 3, 2006


LUDMILA YAMALOVA

CERTIFICATE OF SERVICE

I, ARTHUR G. CONNOLLY, III, do hereby certify that on this date, true and correct copies of the foregoing were served upon the following counsel via ECF and as follows:

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DATED: November 14, 2006


ARTHUR G. CONNOLLY, III (No. 2667)